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NAZARETH OFFICE:
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NAZARETH, PA. 18064

October 15, 2012

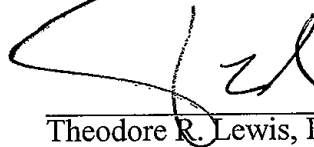
Gregory J. Davis, Esquire
Saul Ewing LLP
1200 Liberty Ridge Drive, Suite 200
Wayne, PA 19087

Re: *Hanover Township Zoning Hearing Board –
Griffin Land and Nurseries, Inc.*

Dear Greg:

Enclosed herewith please find a true and correct copy of the Findings of Fact and Conclusions of Law of the Hanover Township Zoning Hearing Board that I am sending to you as attorney for the petitioner in the above matter.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosure

cc: Yvonne D. Kutz, Zoning Officer

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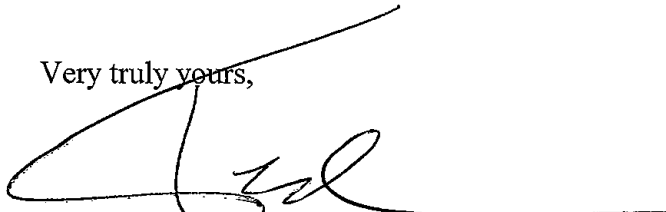
Joseph A. Zator, II, Esquire
4400 Walbert Avenue
Allentown, PA 18104

**Re: *Hanover Township Zoning Hearing Board –
Griffin Land and Nurseries, Inc.***

Dear Joe:

Enclosed herewith please find a true and correct copy of the Findings of Fact and Conclusions of Law of the Hanover Township Zoning Hearing Board that I am sending to you as attorney for the owner of the subject property.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosure

cc: Yvonne D. Kutz, Zoning Officer

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Re : Griffin Land and Nurseries, Inc.
Dated : August 27, 2012
Property : 5200 Jaindl Boulevard

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, September 27, 2012, and rendering its oral decision granting the requested variance subject to the conditions as hereinafter set forth, hereby makes the following findings of fact and conclusions of law in support thereof:

1. At the commencement of the hearing the applicant indicated that one of its witnesses will be Kevin Horvath, the son of Zoning Board Member Vince Horvath. Mr. Vince Horvath then recused himself from participation or voting on this application.
2. The Chairman then seated the alternate, Joseph Bednarik, as a voting member of the Board to fill the vacancy.
3. The subject property is a vacant 49.374 acre tract of land located at 5200 Jaindl Boulevard in a PIBD – Planned Industrial/Business District
4. A Conceptual Site Layout Plan drawn by Keystone Consulting Engineers and dated August 22, 2012 with no revision dates, accompanied the application. This plan depicted 70 dock doors or loading spaces for the front building closest to Jaindl Boulevard and 67 dock doors for the rear building.
5. The applicant thereafter amended this plan to reduce the number of dock doors or loading spaces to 65 for the front building and 61 for the rear building. (See Exhibit A-4)
6. The applicant was represented at the hearing by Attorney Gregory J. Davis of Saul Ewing LLP. Mr. Davis introduced seven exhibits labeled A-1 through A-7, respectively, which exhibits were identified as follows:

- A-1 Agreement of Sale (Redacted and Abbreviated);
- A-2 Zoning Hearing Board Application;
- A-3 Conceptual Layout Plan (Color) (Prepared by Jaindl);
- A-4 Proposed Site Plan (Color) (Prepared by KCE);

A-5 Profile Plan (Prepared by KCE);

A-6 Photographs A) thru F);

A-7 C.V. of Kevin J. Horvath, P.E.

7. Kevin J. Horvath, P.E. from Keystone Consulting Engineers and Michael Gamzon, President and CEO of Griffin Land and Nurseries, Inc. testified on behalf of the application.

8. After qualifying as an expert witness, Mr. Horvath rendered his opinion that the proposed structure is best described as a warehouse and not a truck terminal. He indicated that one of the most typical features of a truck terminal is loading on both sides of the building which provides for much quicker movement of materials as is normally necessary in a truck terminal.

9. He indicated that in truck terminals typically the goods are off-loaded on one side and then repackaged and on-loaded on the opposite side.

10. In the present case the applicant proposes only truck loading spaces on the north side of each of the two buildings.

11. Mr. Horvath also testified as to the elevation changes on the site, indicating that the installation of dock loading spaces on the north side of each of the buildings was more in keeping with the slope of the lot. In addition, putting the truck loading facilities on the north side of the lot would result in most of the activity with respect to off-loading and loading being screened by the building itself. It would also be further away from the residential area to the south.

12. Mr. Horvath also indicated that because of the slope changes as illustrated in Exhibit A-5, visibility of the rear building will be almost completely obscured from Jaindl Boulevard by the front building, and only the top portion of the front building will be visible.

13. Mr. Horvath also testified that mathematically if the 30% rule, as set forth in the definition for truck terminals in the ordinance, is applied to all four walls of the proposed building, that as many as 76 loading spaces could be on the front building and 74 on the rear building, for a total of 150 or 24 more than being proposed.

14. The Board is reluctant to accept those figures without more detail as to just exactly how those spaces could fit on all four sides of the building. However, the Board does believe that it is fair to say that if both the north and the south walls were utilized for dock loading, that approximately the same number of loading spaces could be designed into the building without it being reclassified from a warehouse to a truck terminal as per the definition of the ordinance.

15. Mr. Horvath also indicated that the design of the building was to have flexible space for both office and light manufacturing. He stated that in his opinion the proposed building is not designed in a manner that would promote a truck terminal use.

16. Mr. Gamzon testified that Griffin Land and Nurseries, Inc. has developed similar buildings, some of which are located in the area.

17. Mr. Gamzon also indicated that the one-side loading is a better design for proposed uses which his company desires to locate in the building, such as light assembly, light manufacturing, and mail processing.

18. Mr. Gamzon testified that he understood that there is no request before the Board for any kind of use variance from those uses that would otherwise be permitted under the ordinance so that the grant of the approval for the structure to exist as a warehouse would not also include the right to use it for uses that are not permitted in the PIBD zone.

19. Numerous residents from the residential development across Jaindl Boulevard to the south testified. Some expressed their opinion that they did not want to see any kind of commercial development so close to their residential development. Others indicated they felt that if the warehouse were going to be developed that they did prefer the truck loading to be on the north side of the building as the applicant proposed. All of them expressed concern as to truck traffic on Jaindl Boulevard.

20. The applicant requests an interpretation or if necessary a variance from Sect. 185-35.B.(8) of the ordinance. This section allows as a permitted use in the PIBD district wholesaling and warehousing, but not storage buildings or truck terminals.

21. The words "wholesaling" and "warehousing" are not defined in the ordinance. On the other hand, the words "storage buildings" and "truck terminals" are defined in Sect. 185-12 of the ordinance.

22. That section defines a storage building as "*Any building or structure whose exterior elevation view, as viewed from any side, contains more than 30% of the perimeter linear feet of wall as doors, at or near ground level and whose primary purpose is short or long term storing or warehousing*".

23. That section also defines a truck terminal as "*Any building or structure whose exterior elevation view, as viewed from any side, contains more than 30% of the perimeter linear feet of wall as doors, at or near ground level and whose primary purpose is short-or long-term storing or warehousing or transferring of products or goods, primarily delivered by truck*".

24. For purposes of this decision, doors as defined in the aforesaid definitions shall be referred to as dock doors.

25. It should be noted that storage buildings or truck terminals are not prohibited in this district but are permitted as a conditional use pursuant to Sects. 185-35.D.(14) & (15).

26. However, one requirement for these conditional uses is that the lot does not exceed 5 acres. The subject property is in excess of 49 acres.

27. In addition, these conditional uses are not permitted closer at any point than 1,000 ft. to any zoning district boundary of the PIBD Zoning District. The subject property abuts the agricultural district, the commercial (C-2) district, and is across Jaindl Boulevard from a residential (R1-A) district.

28. Finally these conditional uses are not permitted when the total land of all lots in a continuous PIBD Zoning District being used for any of these conditional uses exceeds

10%. It is estimated that this use will be approximately 37% of the approximate 132 acre continuous PIBD Zoning District.

29. Where terms are set forth and defined in the ordinance the Board is normally bound to accept the definition as contained therein. Where terms are not defined the Board is required to give them their plain and ordinary meaning.

30. The Board notes, however, that in the present case the definition as to storage building and truck terminal seems to be less a description of the primary use and purpose of such a building rather than a strict measurement of an architectural feature which then arbitrarily changes the use from what it might otherwise be to a storage building or truck terminal.

31. The Board believes that to so interpret the ordinance as it relates to the present application will cause a hardship to the applicant preventing a reasonable warehouse use of the premises.

32. Moreover, the Board believes that the grant of the aforesaid variance, when subject to the conditions as hereinafter imposed, will not be detrimental or injurious to the public welfare.

WHEREFORE, the Hanover Township Zoning Hearing Board grants a variance from the provisions of the ordinance which would otherwise cause the definition of the proposed use to be either storage building or a truck terminal if the perimeter lineal feet of wall of dock doors were in excess of 30% to enable the applicant to be classified as a warehouse use provided that the applicant does not exceed, now or in the future, 65 dock doors on the north side of the front building and 61 dock doors on the north side of the rear building, and provided further that the applicant does not have any dock doors on either the east, west or south sides of the two buildings.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: Paul A. Balla
Paul A. Balla, Chairman

Dated: October 15, 2012

THEODORE R. LEWIS
THOMAS L. WALTERS

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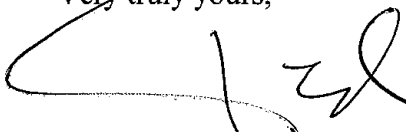
Yvonne D. Kutz, Zoning Officer
Hanover Township Municipal Bldg.
3630 Jacksonville Road
Bethlehem, PA 18017

Re: Hanover Township Zoning Hearing Board –
Griffin Land and Nurseries, Inc.

Dear Yvonne:

Enclosed herewith find copy of Findings of Fact and Conclusions of Law in the above matter, along with a copy of the cover letters enclosing the same.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosures